

Executive Summary – Enforcement Matter – Case No. 47745

City of Los Fresnos

RN102184207

Docket No. 2013-1849-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Los Fresnos WTF, located at 802 South Nogal Street, approximately 2,000 feet west of Farm-to Market Road 1847 and 3,000 feet south of State Highway 100 at the end of Nogal Street in the southwestern portion of Los Fresnos, Cameron County

Type of Operation:

Water treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 13, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,100

Amount Deferred for Expedited Settlement: \$3,420

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$13,680

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 47745
City of Los Fresnos
RN102184207
Docket No. 2013-1849-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 23, 2013

Date(s) of NOE(s): September 18, 2013

Violation Information

Failed to comply with permitted effluent limits for ammonia nitrogen and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010590002, Interim Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010590002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Had Darling, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2520; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Mark W. Milum, City Manager, City of Los Fresnos, 200 North Brazil Street, Los Fresnos, Texas 78566

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	23-Sep-2013	Screening	25-Sep-2013	EPA Due	5-Dec-2013
	PCW	26-Sep-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Los Fresnos		
Reg. Ent. Ref. No.	RN102184207		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	47745	No. of Violations	1
Docket No.	2013-1849-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Had Darling
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$11,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **52.0%** Enhancement **Subtotals 2, 3, & 7** **\$5,850**

Notes: Enhancement for six months of self-reported effluent violations, one NOV with dissimilar violations, and one order with denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$781
Approx. Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$17,100**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$17,100**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$17,100**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$3,420**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$13,680**

Screening Date 25-Sep-2013

Docket No. 2013-1849-MWD-E

PCW

Respondent City of Los Fresnos

Policy Revision 3 (September 2011)

Case ID No. 47745

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102184207

Media [Statute] Water Quality

Enf. Coordinator Had Darling

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 52%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for six months of self-reported effluent violations, one NOV with dissimilar violations, and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 52%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 52%

Screening Date 25-Sep-2013

Docket No. 2013-1849-MWD-E

PCW

Respondent City of Los Fresnos

Policy Revision 3 (September 2011)

Case ID No. 47745

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102184207

Media [Statute] Water Quality

Enf. Coordinator Had Darling

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010590002, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on August 23, 2013, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Escherichia coli was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

122 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$781

Violation Final Penalty Total \$17,100

This violation Final Assessed Penalty (adjusted for limits) \$17,100

Economic Benefit Worksheet

Respondent City of Los Fresnos
Case ID No. 47745
Req. Ent. Reference No. RN102184207
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Nov-2012	23-Jun-2014	1.56	\$781	n/a	\$781

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$781

City of Los Fresnos
TPDES Permit No. WQ0010590002
Docket No. 2013-1849-MWD-E

Effluent Violation Table					
Permitted Effluent Limits	Monitoring Period				
	November 2012	December 2012	February 2013	April 2013	May 2013
<i>Escherichia coli</i> Daily Average Limit = 126 CFU/100 mL	290	c	c	c	c
<i>Escherichia coli</i> Single Grab Maximum Limit = 394 CFU/100 mL	579	c	c	c	c
Ammonia Nitrogen Daily Average Concentration Limit = 3 mg/L	c	8	c	12	9
Ammonia Nitrogen Daily Max Concentration Limit = 10 mg/L	c	13	13	13	17
Ammonia Nitrogen Daily Average Loading Limit = 25 lbs/day	c	33	c	43	35

CFU/100 mL = colony forming units per 100 milliliters

mg/L = milligrams per liter

lbs/day = pounds per day

c = compliant



Compliance History Report

Customer, Respondent, or Owner/Operator: CN600241483, City of Los Fresnos **Classification:** SATISFACTORY **Rating:** 8.66

Regulated Entity: RN102184207, CITY OF LOS FRESNOS **Classification:** SATISFACTORY **Rating:** 11.27

Complexity Points: 10 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 802 South Nogal Street, approximately 2,000 feet west of Farm-to Market Road 1847 and 3,000 feet south of State Highway 100 at the end of Nogal Street in the southwestern portion of the City of Los Fresnos in Cameron County, Texas 78566

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

WASTEWATER PERMIT WQ0010590002

WASTEWATER EPA ID TX0091243

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: September 24, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 24, 2008 to September 24, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Herbert Darling

Phone (512) 239-2520

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 07/08/2012 ADMINORDER 2012-0081-MWD-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Int. Eff. Lim. & Mon. Req. No. 1 PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Provisions PERMIT

Sludge Reporting Requirements PERMIT

Description: Failure to submit the annual sludge report for the monitoring period ending July 31, 2011, by September 30, 2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	October 17, 2008	(731205)
Item 2	November 19, 2008	(731206)
Item 3	December 22, 2008	(731207)
Item 4	January 14, 2009	(754467)
Item 5	February 20, 2009	(754466)
Item 6	March 19, 2009	(771733)
Item 7	April 20, 2009	(771734)
Item 8	May 18, 2009	(815285)
Item 9	June 17, 2009	(815286)
Item 10	July 17, 2009	(815287)
Item 11	August 21, 2009	(815288)
Item 12	September 14, 2009	(815289)
Item 13	October 19, 2009	(815290)
Item 14	November 09, 2009	(815291)
Item 15	December 21, 2009	(815292)
Item 16	January 13, 2010	(815293)
Item 17	February 04, 2010	(781186)
Item 18	February 16, 2010	(815284)
Item 19	March 18, 2010	(834554)
Item 20	April 21, 2010	(834555)
Item 21	May 26, 2010	(834556)
Item 22	June 21, 2010	(847399)
Item 23	July 16, 2010	(868270)
Item 24	August 30, 2010	(868271)
Item 25	September 13, 2010	(875180)
Item 26	October 15, 2010	(882790)
Item 27	November 22, 2010	(928731)
Item 28	December 20, 2010	(928732)
Item 29	February 22, 2011	(910373)
Item 30	March 18, 2011	(917597)
Item 31	May 16, 2011	(939302)
Item 32	July 21, 2011	(953965)
Item 33	August 25, 2011	(960558)
Item 34	September 12, 2011	(966613)
Item 35	September 14, 2012	(1048220)
Item 36	October 12, 2012	(1067449)
Item 37	November 19, 2012	(1067450)
Item 38	February 21, 2013	(1097007)
Item 39	April 17, 2013	(1097008)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	11/30/2012	(1067451)	CN600241483	
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
2	Date:	12/31/2012	(1081737)	CN600241483	
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			

3	Date: 02/28/2013 (1090652)	CN600241483	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 04/30/2013 (1107972)	CN600241483	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
5	Date: 05/31/2013 (1111605)	CN600241483	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
6	Date: 06/30/2013 (1118508)	CN600241483	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
7	Date: 08/27/2013 (1103887)	CN600241483	
	Self Report? NO	Classification: Minor	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: The facility was cited for failure to provide a primary measuring device which includes a non-corrosive ruler (staff gauge). Specifically, a legible staff gauge must be installed and maintained and on the day of the investigation the staff gauge was unreadable		
	Self Report? NO	Classification: Minor	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(11)(B)		
	Description: Failure to make all sludge documents readily available to TCEQ personnel. Specifically, sludge disposal records for the record review period of July 2012 to July 2013 were incomplete.		
	Self Report? NO	Classification: Minor	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description: The facility was cited for failure to operate and maintain the collection system. Specifically, the audio visual alarm and one of the two pumps located at the Hudson rodeo grounds lift station, the audio visual alarm at the Old Legion subdivision lift station, and the audio visual alarm, intruder resistance fence, and one of the two pumps located at the South Paredes lift station were not working or in place.		
	Self Report? NO	Classification: Minor	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description: Failed to provide the required facility access control. Specifically, the front gate at the South Paredes lift station fence was missing.		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LOS FRESNOS
RN102184207**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-1849-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Los Fresnos ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a water treatment facility located at 802 South Nogal Street, approximately 2,000 feet west of Farm-to Market Road 1847 and 3,000 feet south of State Highway 100 at the end of Nogal Street in the southwestern portion of Los Fresnos, in Cameron County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 23, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seventeen Thousand One Hundred Dollars (\$17,100) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid Thirteen Thousand Six Hundred Eighty Dollars (\$13,680) of the administrative penalty and Three Thousand Four Hundred Twenty Dollars (\$3,420) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010590002, Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 23, 2013, and shown in the table below:

Effluent Violation Table					
Permitted Effluent Limits	Monitoring Period				
	November 2012	December 2012	February 2013	April 2013	May 2013
<i>Escherichia coli</i> Daily Average Limit = 126 CFU/100 mL	290	c	c	c	c
<i>Escherichia coli</i> Single Grab Maximum Limit = 394 CFU/100 mL	579	c	c	c	c
Ammonia Nitrogen Daily Average Concentration Limit = 3 mg/L	c	8	c	12	9
Ammonia Nitrogen Daily Max Concentration Limit = 10 mg/L	c	13	13	13	17
Ammonia Nitrogen Daily Average Loading Limit = 25 lbs/day	c	33	c	43	35

CFU/100 mL = colony forming units per 100 milliliters
mg/L = milligrams per liter
lbs/day = pounds per day
c = compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Los Fresnos, Docket No. 2013-1849-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010590002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Juan Miller for Ramiro Garcia
For the Executive Director

1.9.14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Mark W. Milum
Signature

11-5-13
Date

Mark W. Milum
Name (Printed or typed)
Authorized Representative of the
City of Los Fresnos

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.